

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on May 16, 2008 has been entered.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because newly added limitation (relative heights of liner and opening) are not clearly shown in the drawings. New drawings with lines delineating this relationship are required. The specification will need to be amended to reflect the new reference numerals for these lines. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. Hand drawn figures will not be accepted. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. **The requirement for corrected drawings will not be held in abeyance.**

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-24 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. These claims are omnibus type claim. The limitation "no more than one access opening along each elongated side" is indefinite. It is a negative limitation and does not require that any opening be present on an elongated side, while allowing for only one if present. As such it is not clear how many openings the applicant is claiming or their location. This indefiniteness is also present in dependent claims 23 and 24. In the art rejections below one opening is being treated as being in one elongated side panel. Clarification is required.

Claims 25-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of the claim refers to a liner, but structure of the container is positively recited in the body of the claim. As no particular structure of the container is claimed it is indefinite as to how large the door to the container may be. This application is related to a liner and not a container. In the art rejections below the opening is treated as being substantially the same size as the height of the elongated side of the liner. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 7, 8, 22, 24, 25, 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Meier et al. Regarding claims 1, 22, 24, 25 and 26 Meier et al. US 5,183,176 discloses a liner for a container comprising:

four elongated panels of impervious film adapted to substantially match the elongated sides, top and bottom of a container;

first and second end panels to complete said liner;

an access opening along one side of said liner, said opening substantially the same height of the elongate side panel and is adapted to loading and unloading cargo to and from the container which the liner is placed into;

a closure for the liner to seal against moisture to protect the cargo.

Regarding claim 5 Meier et al. also disclose the opening as being at the approximate mid point of the elongated panel.

Regarding claims 7 and 8 Meier et al. also disclose providing folds in the liner to allow for expansion of the liner from a folded state to a fully extended state that matches the interior of a container, wherein said joint are heat sealed welds.

Claim Rejections - 35 USC § 103

Claims 2-4, 12, 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al. as applied to claims 1, 23 and 25 above, and further in view of Krein et al. Meier et al. teaches the limitations of claim 1, 22 and 25 as above, they further teach heat welding the seams of their liner to form a unitary structure. They do not teach providing a tube about the access opening to the liner. Krein et al. US 5,028,197 teaches a liner for a container comprising:

an opening in one side of the liner for loading and unloading cargo;
a source of air for erecting the liner within a container;
said opening having a tube that extends from said opening to form a passage from loading and unloading cargo;
wherein said tube may be fastened by tying and tucked into said container for transport after loading. See figure 6. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Meier et al. with a tube as taught by Krein et al. in order to provide a closure for the liner that is out of the way during loading and unloading while still providing for a moisture barrier when sealed.

Claims 6,21,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al. as applied to claims 1 and 25 above, and further in view of Fell et al. Meier et al. teaches the limitations of claims 1 and 25 as above, they do not teach a second opening in the second elongated side panel. Fell et al. US 3,951,284 teaches a container with a liner wherein the liner has openings with at least one tube wherein the openings in the liner match the openings in the container. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the liner taught by Meier et al. with openings at each door to the container as taught by Fell et al. in order to allow each door to the container to be utilized thereby increasing the speed of loading and unloading the container.

Response to Amendment

The amendments to the claims filed on May 16, 2008 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to claims 1,22 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/
Primary Examiner, Art Unit 3652

